

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

MICHAEL LYON, as Trustee of the
Michael T. Lyon Profit Sharing Plan,
and RICHARD LANE,

Plaintiff,

v.

SIGMUND A. EISENSCHENK,
RESOURCE EQUITIES, LLC,
an Illinois limited liability company, and
THUNDER BAY ENTERPRISES, LLC,
an Illinois limited liability company,

Defendant.

No. 08 C 754

**PLAINTIFFS' RESPONSE TO
DEFENDANTS' AFFIRMATIVE DEFENSES**

Plaintiffs Michael Lyon, as Trustee of the Michael T. Lyon Profit Sharing Plan, and Richard Lane, by and through their attorneys, Garfield & Merel, Ltd., for their Response to Defendants' Affirmative Defenses, state as follows:

First Affirmative Defense: Plaintiffs' claims are barred by the applicable statutes of limitation.

RESPONSE: Plaintiffs deny the allegations set forth in Defendants' First Affirmative Defense.

Second Affirmative Defense: Plaintiffs' claims are barred by the statute of frauds.

RESPONSE: Plaintiffs deny the allegations set forth in Defendants' Second Affirmative Defense.

Third Affirmative Defense: Plaintiffs' claims fail to state fraud with sufficient specificity.

RESPONSE: Plaintiffs deny the allegations set forth in Defendants' Third Affirmative Defense.

Fourth Affirmative Defense: Plaintiffs' claims are barred by the doctrine of laches.

RESPONSE: Plaintiffs deny the allegations set forth in Defendants' Fourth Affirmative Defense.

Fifth Affirmative Defense: Plaintiffs are guilty of unclean hands as to the matters alleged in the Complaint and, therefore, are barred from seeking equitable relief.

RESPONSE: Plaintiffs deny the allegations set forth in Defendants' Fifth Affirmative Defense.

Sixth Affirmative Defense: Plaintiffs' claims are barred by their failure to mitigate their damages, if any.

RESPONSE: Plaintiffs deny the allegations set forth in Defendants' Sixth Affirmative Defense.

Seventh Affirmative Defense: Plaintiffs are estopped, by law or conduct, from asserting any claim for relief against Defendants.

RESPONSE: Plaintiffs deny the allegations set forth in Defendants' Seventh Affirmative Defense.

MICHAEL LYON, as Trustee of
the Michael T. Lyon Profit Sharing Plan,
and RICHARD LANE

By: S/Gregory A. McCormick
One of their attorneys

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STATE OF ILLINOIS)
) SS.:
COUNTY OF COOK)

CERTIFICATE OF SERVICE

I, Gregory A. McCormick, on oath state I am the attorney of record for the Plaintiffs and served the foregoing Responses to the person named below via ECF and by mail to the following Service List by depositing the foregoing in the United States mail at 223 W. Jackson Boulevard, Chicago, IL before 5:00 p.m. on this 22nd day of August, 2008.

S/Gregory A. McCormick
Gregory A. McCormick

SERVICE LIST

Edward W. Hutchinson
Daniel C. Curth
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